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Attorneys for Plaintiffs; additional counsel  
listed in signature blocks below

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL  
CATALDO, JULIAN  
SANTIAGO, and SUSAN LYNN  
HARVEY, individually and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

**WILLKIE FARR & GALLAGHER LLP**

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Attorneys for Defendant Google LLC

Case No.: 3:20-cv-04688-RS

**JOINT SUBMISSION REGARDING  
TRIAL DATES AND SCHEDULE**

Judge: Hon. Richard Seeborg

1 Following the October 10, 2024 case management conference, counsel for Plaintiffs  
2 and Google LLC met and conferred regarding a possible agreement on a trial date and certain  
3 related deadlines. The Parties unfortunately could not reach any agreement. The Parties  
4 therefore include their separate statements below for the Court's consideration.

5 **Plaintiffs' Position**

6 Plaintiffs will be prepared to try this case either (1) starting on May 12, 2025, if that  
7 time becomes available, or (2) starting any day in June, July, August, or September provided  
8 the trial can conclude before October 1, 2025. Lead counsel for Plaintiffs, David Boies, has  
9 other legal proceedings and personal commitments October 1 through the 16, and Plaintiffs  
10 seek to complete trial at any time convenient for the Court, as soon as practicable, starting  
11 May 2025. Google proposes trial starting one year from now, on October 20, 2025, due to  
12 other trials scheduled for June and July and the desire for certain Google attorneys to take  
13 vacations in August. In addition, Google is insisting that the major pre-trial motions be  
14 briefed, argued, and decided while Mr. Boies is away (i.e., starting in October), which is  
15 disingenuous given their own requests.

16 Plaintiffs have no desire to disrupt any vacations Google's lawyers wish to schedule  
17 for next August, but Plaintiffs believe a year-long delay is unwarranted and respectfully seek  
18 to schedule trial as soon as possible, including if the Court becomes available starting on May  
19 12, 2025. Plaintiffs filed this case in July 2020. Since then, Google has continued to collect,  
20 save, and use personal information while (s)WAA is turned off. Plaintiffs seek relief from  
21 ongoing harm caused by Google to themselves and other class members. The class period  
22 ended on September 23, 2024, which also means that the damages calculations will end  
23 September 23, 2024. An extended delay between the end of the class period and trial is  
24 prejudicial to Plaintiffs. Plaintiffs understand that the Court will issue its summary judgment  
25 decision in early 2025, and Plaintiffs believe that the parties can be prepared for trial soon  
26 after, including if possible in May 2025.

27 It will be most convenient for the Court to simply calculate all deadlines from a May  
28 12 Trial Deadline, that way the parties may be ready any time the Court is ready to try the

case. Yesterday, Google for the first time proposed a briefing schedule for the damages-related motion referenced by Google's counsel during the case management conference, which Google includes in its schedule below. There is no reason to delay briefing this issue until late March of 2025, as Google proposes. Plaintiffs expect that this issue will be ripe by December. Prompt briefing and resolution of this issue may facilitate any settlement discussions and will enable the parties to prepare for trial with knowledge of the damages calculations that may be presented.

Plaintiffs appreciate the Court's assistance.

Event	Proposed Schedule Based on May 12 Trial Date
Parties file any <i>Daubert</i> motions	March 13, 2025
Parties file oppositions to any <i>Daubert</i> motions	April 3, 2025
Parties file replies in support of any <i>Daubert</i> motions	April 10, 2025
Deadline to meet and confer regarding issues to be addressed in pretrial submissions	April 18, 2025
Parties file Joint Pretrial Statement and Proposed Order	April 18, 2025
Parties exchange final set of exhibits, summaries, charts, and diagrams to be used at trial (other than those solely for impeachment or rebuttal)	April 18, 2025
Parties file motions <i>in limine</i> (including Google motions to exclude Mr. Pichai and Mr. Lemoine)	Before April 23, 2025
Deadline for parties to meet and confer re jury instructions	April 23, 2025
Parties file proposed jury instructions and verdict forms	April 23, 2025
Parties file proposed <i>voire dire</i> questions	April 25, 2025
Parties file any oppositions to motions <i>in limine</i>	April 25, 2025
<b><u>Final Pretrial Conference</u></b>	April 28, 2025

1	Deadline to request daily transcripts and/or Realtime reporting (optional)	May 7, 2025
2	Final set of exhibits due to the Court (3 sets of pre-marked exhibits in 3-ring binders delivered to Courtroom Deputy)	May 7, 2025
3	Parties file final deposition and discovery designations with any counter designations	May 9, 2025
4	Parties file any objections to deposition and discovery designations (and counter designations)	May 9, 2025
5	<b><u>Trial Commences</u></b>	May 12, 2025

### **Google's Position**

6 The Parties have reached an impasse on setting the trial date and now respectfully seek  
7 the Court's intervention. During the October 10, 2024 CMC, the Court requested that the  
8 parties propose a trial date "starting in August and thereafter." Tr. 4:4-5. Because of the other  
9 trial commitments of lead counsel for Google, Google proposes a trial date of September 29,  
10 2025 or later. In other words, Google is willing to accommodate any conflicts that Plaintiffs'  
11 counsel have as long as the trial starts on or after September 29, 2025.

12 The Parties' Joint Case Management Statement identified several issues that must be  
13 addressed before trial. *See* Dkt. No. 427 (filed Oct. 3, 2024). Many of these issues were also  
14 discussed during the October 10, 2024 Case Management Conference. They included updated  
15 financials, updated expert reports, adjudication of a motion to strike newly disclosed damages  
16 models, adjudication of a motion to exclude Mr. Sundar Pichai from trial, potential additional  
17 expert depositions, adjudication of *Daubert* motions, and adjudication of motions in limine.

18 Additionally, all of Google's lead counsel (Mr. Benedict Hur, Ms. Simona Agnolucci,  
19 and Mr. Eduardo Santacana) have trials scheduled for June and July 2025. Mr. Hur and Ms.  
20 Agnolucci have a trial scheduled in Texas in June. And all three lead counsel have a multi-  
21 defendant trial scheduled before Judge Donato, on behalf of Google, for July 14. Google's  
22 lead counsel anticipates jury deliberation could go into early August. Mr. Hur, Mr. Santacana,  
23 and Ms. Agnolucci also all have family vacations planned through August 15, just after the  
24 trial concludes and before the start of school. These three lead counsel have litigated both this

1 case and the July 14 case (*Frasco v. Flo Health, et al.*, No. 3:21-cv-00757-JD (N.D. Cal.)) for  
2 several years, and are critical team members for their client, Google.

3 Even if no personal travel were taken into account, Plaintiffs' request for an early  
4 September trial does not provide a reasonable amount of time for Google's lead counsel to  
5 prepare for trial. Leaving just four weeks between trials, especially given trials of these  
6 magnitudes, is not reasonable, and Plaintiffs surely would not make such a demand of their  
7 own trial teams if the shoe were on the other foot.

8 While Plaintiffs now request a May trial date, just yesterday they were offering a late  
9 August or early September date. A May trial date is impractical for several reasons. First, the  
10 Court has indicated it has a major trial scheduled for May and also "has to be away for chunks"  
11 of that month. Tr. 3:22-24, 5:1-4. Additionally, it would be imprudent to set a trial date under  
12 these uncertain circumstances, particularly given the outstanding pretrial matters that must be  
13 resolved, as well as the fact that Google's lead counsel have trials scheduled for June and July  
14 2025.<sup>1</sup>

15 Plaintiffs have also not explained why a delay from early September to late September  
16 or mid-October—just six weeks — is a deal breaker for them. They haven't identified, for  
17 example, any trial conflicts among any of their almost one dozen lead trial counsel that  
18 complicates this schedule. And Google has made clear it will be able to start trial on any day  
19 in 2025 starting on September 29. Google has no tactical interest here. It merely seeks to leave  
20 reasonable time between trials so that this trial is well prepared and well presented, and so the  
21 trial teams are not unduly burdened professionally and personally without justification.

22 Google understands that one of Plaintiffs' lead counsel, Mr. David Boies, has a  
23 commitment that blocks his schedule from October 1-16. Mr. Boies' colleagues explained that  
24 he has his own trials, travel plans and business proceedings starting the first week of October  
25 2025, but did not identify the trials or proceedings. Plaintiffs have also not explained the roles  
26 of their eleven other lead counsel from Boies Schiller (Mr. Mark Mao, Mr. Beko Reblitz-

27  
28 <sup>1</sup> Google disagrees with Plaintiffs' suggestion that the notice period is somehow Google's fault but will focus on the Court's directive to propose a trial date.

Richardson, Mr. James Lee, Ms. Alison Anderson), Morgan & Morgan (Mr. John Yanchunis, Mr. Ryan McGee, Mr. Mike Ram, and Mr. Keith Mitnik) and Susman & Godfrey (Mr. Bill Carmody, Mr. Shawn Rabin, Mr. Steven Shepard, Ms. Amanda Bonn).

Regardless, Google does not object to a trial date any time that Mr. Boies is available for this trial, including any date after September 29. Its objection is to a schedule that unduly burdens trial counsel and potentially prejudices Google by forcing its lead counsel in three cases to try them back to back to back when an unobjectionable trial date is available just a few weeks later.

Google's preference is to negotiate a case schedule with Plaintiffs once the Court sets a firm trial date. Because Plaintiffs insist on including a proposed schedule in their portion of this notice, Google proposes the below schedule tied to an October 20 trial start date, given Mr. Boies's stated conflict. To the extent Plaintiffs are concerned about potential conflicts between Mr. Boies's prior commitments and pretrial motions, Google is willing to work with them to reach a mutually agreeable schedule, including the possibility of setting a trial date after October 20. Absent a firm trial date, however, it remains difficult to finalize this agreement with Plaintiffs.

#### **Google's Proposed Case Schedule**

Event	Date
Google files damages-related motion referred to during the Case Management Conference	March 12, 2025
Plaintiffs file response to damages-related motion	March 19, 2025
Google files reply in connection with damages-related motion	April 1, 2025
Hearing (damages-related motion referred to during the Case Management Conference)	April 16, 2025
Parties file any <i>Daubert</i> motions and motion to strike Sundar Pichai as a trial witness	April 30, 2025
Parties file oppositions to any <i>Daubert</i> motions and motion to strike Sundar Pichai as a trial witness	May 14, 2025

1	Parties file replies in support of any <i>Daubert</i> motions and motion to strike Sundar Pichai as a trial witness	May 21, 2025
2		
3	Deadline to meet and confer regarding issues to be addressed in pretrial submissions	August 20, 2025
4	Parties file Joint Pretrial Statement and Proposed Order	September 3, 2025
5	Parties exchange final set of exhibits, summaries, charts, and diagrams to be used at trial (other than those solely for impeachment or rebuttal)	September 10, 2025
6		
7		
8	Parties file motions <i>in limine</i>	September 17, 2025
9	Parties file any oppositions to motions <i>in limine</i>	October 1, 2025
10	Deadline for parties to meet and confer re jury instructions	Before October 3, 2025
11	Parties file proposed jury instructions and verdict forms	October 3, 2025
12	Parties file proposed <i>voire dire</i> questions	October 3, 2025
13	Deadline to request daily transcripts and/or Realtime reporting (optional)	October 6, 2025
14	<b><u>Final Pretrial Conference</u></b>	October 8, 2025
15	Final set of exhibits due to the Court (3 sets of pre-marked exhibits in 3-ring binders delivered to Courtroom Deputy)	October 15, 2025
16		
17	Parties file final deposition and discovery designations with any counter designations	October 15, 2025
18	Parties file any objections to deposition and discovery designations (and counter designations)	October 17, 2025
19		
20	<b><u>Trial Commences</u></b>	October 20, 2025

21  
22 DATED: October 18, 2024

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